

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

EARL G. EDMONDSON,

Plaintiff,

v.

//

**CIVIL ACTION NO. 1:11CV179
(Judge Keeley)**

JAMES SPENCER, Administrator,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [Dkt. No. 94]

Pursuant to 42 U.S.C. § 1983, on November 14, 2011, the pro se plaintiff, Earl Edmondson ("Edmondson"), filed a civil rights complaint against the defendant, James Spencer ("Spencer"). The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2. On July 1, 2013, Spencer filed a Motion for Summary Judgment. (Dkt. No. 72). The Magistrate Judge issued a Roseboro notice, and on July 16, 2013, Edmondson filed a response in opposition to the motion. (Dkt. No. 81). Spencer filed a Reply on July 30, 2013. (Dkt. No. 83).

On January 24, 2013, Magistrate Judge Kaull issued an Opinion and R&R, in which he recommended that Spencer's motion for summary judgment be granted and Edmondson's complaint be dismissed. (Dkt. No. 94). The magistrate judge determined that Spencer's complaint regarding the conditions of his confinement failed to state a claim pursuant to 42 U.S.C. § 1983.

The R&R also specifically warned Edmondson that his failure to

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object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. The parties did not file any objections.¹ Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety, (dkt. no. 94), **GRANTS** the motion for summary judgment, (dkt. no. 72), **DISMISSES WITH PREJUDICE** Edmondson's complaint, (dkt. no 1), and **ORDERS** that this case be stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se plaintiff, certified mail, return receipt requested.

Dated: February 21, 2014.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).